**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.23541 of 2006

Dated:06.03.2007

Between:

Y. Venkaiahnaidu.

…PETITIONER

AND

The Attili Gram Panchayat, rep.by Executive Office,
Attili, West Godavari District, and another.

…RESPONDENTS

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.23541 of 2006

ORDER:

The petitioner is resident of Attili in West Godavari District. He filed instant writ petition seeking a writ of Mandamus declaring the action of the respondents in trying to interfere with his possession and enjoyment of the house bearing door No.5-1 (hereafter called, the subject property) in the said Village as illegal and arbitrary, and for a consequential direction to them not to interfere with his possession.

It is the case of the petitioner that he is the absolute owner and possessor of the subject property, which was originally owned by his grandfather. Allegedly there was partition of the properties divided among their family members including the petitioner's father, Rammurthy, under a registered document dated 11.07.1996. In said partition, the petitioner's father allegedly got the subject property. Thereafter the petitioner succeeded to the said property and has been paying the taxes regularly. The petitioner alleges that first respondent-Gram Panchayat is trying to grab the subject property and instigated the Power Distribution Corporation to lay electrical poles in front of the petitioner's house. Therefore, the petitioner filed O.S.No.411 of 2006 on the file of the Court of the Junior Civil Judge, Tanuku, and the same is pending. When first respondent again allegedly tried to interfere with a portion of the house and demolished the same, the petitioner filed O.S.No.256 of 1997 on the file of the Court of I Additional Junior Civil Judge, Tanuku, which was statedly decreed on 28.11.2002.

Nonetheless second respondent issued a notice dated 28.08.2006 alleging that the petitioner occupied Gramkantham land and that he should handover the property for widening the road. Second respondent also threatened the petitioner with demolition of the property. The petitioner approached second respondent and submitted oral explanation contending that he has title to the property. The petitioner alleges that second respondent did not take any action till 07.11.2006, but on 08.11.2006, he (second respondent) came along with his subordinate staff (demolition squad), took steps for demolishing the house and when a protest was made, demolition squad left the place informing that they will again visit on 10.11.2006. Therefore, instant writ petition is filed.

On 10.11.2006 when the matter was listed, this Court, while ordering notice before admission, granted *status quo*. First respondent has filed a counter-affidavit. It is the case of first respondent that local M.L.A. sanctioned an amount of thirty lakhs from the constituency funds to widen the bank street and to form a cement road. Then first respondent passed a resolution on 16.09.2006 to form C.C. road and also to widen the road by removing the encroachments. Therefore, the Assistant Engineer (Operation), Attili, shifted the electrical poles to facilitate the widening of the road. At that stage, the petitioner filed O.S.No.411 of 2006 and obtained injunction restraining the electricity department from shifting the poles. For this reason, the electrical poles could not be shifted in front of the petitioner's house. In the meanwhile, the Mandal Surveyor, Attili, surveyed the bank street, located the boundaries of the bank street and identified the encroachments including the petitioner's zinc sheeted shed with staircase. According to survey report, second respondent issued notices on 28.08.2006 to all the encroachers. Though all other encroachers received notices and removed the encroachments voluntarily, the petitioner refused to take notice. Therefore, the petitioner's zinc sheeted shed with staircase and wall was demolished on 08.11.2006.

The petitioner has not filed reply-affidavit, though a copy of the counter-affidavit was served on 18.01.2007. Therefore, this Court has to presume that the counter averments stand admitted. A perusal of the counter-affidavit would show that the respondents followed due process of Law before taking action for widening the road. There is satisfactory compliance with the natural justice and therefore, no interference is called for.

The writ petition, with the above observations, is accordingly

dismissed. No costs.

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**(V.V.S.RAO, J)**

06th March, 2007
ghn